HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
and
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

W.P. No.17492 OF 2006

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Between:
Reddy Enclave Welfare Association
(Regd.N.3680), Temple Alwal,
Ranga Reddy District rep. by its
Secretary, B.Prasad.

.....Petitioner

AND

The Alwal Municipality, Alwal, RR District,
Rep by its Commissioner.

.....Respondent

::ORDER::

Counsel for the Petitioner : Sri K.Vasudeva Reddy

Dated 8.9.2006

Per Sri G.S.Singhvi, CJ

Reddy Enclave Welfare Association, Alwal has filed this petition for issue of a mandamus to Alwal Municipality, Alwal (hereinafter described as 'the respondent') to remove all the illegal constructions made in violation of the provisions contained in the Andhra Pradesh Municipalities Act, 1965 (for short 'the 1965 Act') and to ensure that the constructions are made strictly as per the sanctioned plan.

We have heard Sri K.Vasudeva Reddy, learned counsel for the petitioner and minutely scrutinized the pleadings and documents filed with the writ petition. In our opinion, the writ petition does not deserve to be entertained because it suffers from the following fatal flaws:

A) the petitioner has not impleaded those persons as party respondents who are said to have raised construction without getting building plan sanctioned or in violation of the sanctioned plan, and without hearing such persons the Court cannot direct the respondent to demolish the so-called illegal constructions, and

B) the petitioner has not given the details of the so-called illegal constructions so as to enable the Court to scrutinize its plea in a correct perspective. In paragraphs 4 and 5 of the affidavit, Sri B.Prasad, Secretary of the petitioner association has made vague averments regarding the alleged illegal constructions being made in Reddy Enclave. He has neither specified the person who is said to have undertaken construction in violation of the sanctioned plan nor has given the details of constructions made in violation of the sanctioned plan. Sri Prasad has also not pleaded that so- called illegal constructions are in violation of the master plan or the zonal plan. The documents filed along with the writ petition which

are copies of two representations made by the petitioner association and legal notice dated 21.12.2004 sent by its Advocate are also conspicuously silent about the persons who are said to be making illegal constructions. Only in paragraph 3 of the legal notice, a mention has been made of the three buildings being erected with the name 'Bobbili Nest, Mahalaxmi Arcade & Urvi Nivas". However, the particulars of the owners of the buildings have not been given so as to enable the Court to issue notices to them and then decide the issue relating to the so-called illegal constructions. In our opinion, after coming into force of the Right to Information Act, 2005, any person can seek the information and obtain documents from a public authority. Therefore, it was the duty of the petitioner to have first approached the concerned authorities of Alwal Municipality for supply of the relevant information and documents and then moved the Court for ordaining the respondent to remove illegal structures.

For the reasons stated above, the writ petition is dismissed. However, liberty is given to the petitioner to file fresh petition after securing relevant information and documents from Alwal Municipality by filing appropriate application under the Right to Information Act, 2005. Needless to say that fresh petition would be entertained only if the persons who are said to have made illegal constructions are impleaded as party respondents.

As a sequel to dismissal of the writ petition, WPMP No.21923 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY,J

Dt.8.9.2006

msv.